

Forest Venture II, LLC
(c/o Richard Talkin Esq.),
Petitioner
ZRA 123

* PLANNING BOARD OF
* HOWARD COUNTY, MARYLAND

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MOTION: To recommend approval with conditions of the proposal to amend Section 100.G of the Zoning Regulations to allow the Zoning Board to approve variances to the bulk regulations in conjunction with site plan zoning petitions.

ACTION: *Recommended approval of Petition with modifications; Vote 3 to 0.*

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RECOMMENDATION

On December 10, 2009, the Planning Board of Howard County, Maryland, considered the petition of Forest Venture II, LLC (c/o Richard B. Talkin, Esq.) to amend Section 100.G.2.g of the Zoning Regulations to allow the Zoning Board to approve variances to the bulk regulations in conjunction with site plan zoning petitions.

The petition, the Department of Planning and Zoning Technical Staff Report and Recommendation were presented to the Board for its consideration. The Department of Planning and Zoning recommended that the Petitioner's request be approved.

The Petitioner was represented by Sang Oh, Esq. Angie Beltram, representative for the Howard County Citizens Association (HCCA) and Cathy Hudson appeared in opposition to the petition. Mr. Oh said that the proposed amendment would be a good change. He said that the process for several projects requiring variances such as the Lorien Elkridge project were lengthened and complicated, and less effective with the additional step of returning for variance approval. Currently, a project can receive Zoning Board approval but the petitioner may still not know if the project can proceed because the variance decision affects its implementation. . He said the legal sufficiency is valid for the Zoning Board to make decisions on this issue.

The petitioner was questioned that while the benefit of increasing the efficiency of the process is clear, would there be any negatives to allowing the Zoning Board to approve variances (specifically, would there be a loss of due process?), i.e., a situation that would benefit from a "cooling-off" period for the public to consider the variance request. Mr. Oh said the documented site plan process is tightly controlled and he does not see a downside to it. Mr. Oh stated that public involvement tends to be front loaded on zoning cases and if done simultaneously would permit the public to offer input on multiple issues without having to follow the process and return at a later date.

Testimony:

Ms. Beltram testified that the HCCA is opposed to the amendment as written. She said the opposition was not to the Zoning Board having approval authority for variances, but the notification process

1 and public awareness of the meaning and implications of a variance. She said the HCCA is concerned that
2 citizens would not have due process to appeal a variance even if they agree with the documented site plan.
3 She said the Zoning Board should have the power to approve, deny or modify a variance and that signs
4 need to be posted and the written notification be written to spell out the exact amounts of variances. She
also stated that the Zoning Regulations should include the requirement that a variance petition be filed with
a documented site plan requiring a variance.

5 Cathy Hudson testified that she agreed with Ms. Beltram. She stated that under the current
6 procedures for variance petitions, a sign is posted advertising the specific variance request and there is a
separate hearing in which citizens can testify.

7 Mr. Oh stated that because the site plan and variance are separate processes, a variance application
8 would be required to be filed with documented site plans. He said the documented site plan is a very
9 "notification-intense" process and the neighbors would be notified of the variance and that a variance
10 petition would be required.

11 **Discussion:**

12 David Grabowski made a motion to discuss the proposal. Paul Yelder seconded the motion. The
13 Board agreed the proposal offers a way to shorten the process without reducing public input. By the Zoning
14 Board addressing the zoning and variance requests independently, citizens/petitioner may appeal them
15 independently as well. Additionally, the process affords the opportunity for further review by the Planning
16 Board if the Zoning Board denies a variance which results in a significantly altered plan. The Board agreed
to support the proposal with the four following modifications provided the Howard County Office of Law
finds legal sufficiency to empower the Zoning Board:

- 17 1. Confirm that the site plan and variance request are separate issues and each can be decided
18 by the Zoning Board independently and that each is appealable independently of the other;
- 19 2. Notification for multiple requests should be done; notification of a variance must be in the
20 written notice sent to adjoining property owners and others required to be notified; the
21 specific information about the amount of the variance must be clearly posted on a sign
22 located on the property; and the Zoning Regulations should include in the amendment that
a variance petition is required to be filed with the petition.
- 23 3. The Zoning Regulations should be amended to permit the Zoning Board to approve, deny
24 or modify a variance request; and that the Zoning Board has the authority to require a
modified site plan.
- 25 4. The Howard County Office of Law should research any changes to other regulations
26 which may be affected by the amendment in order to avoid any potential code conflicts.

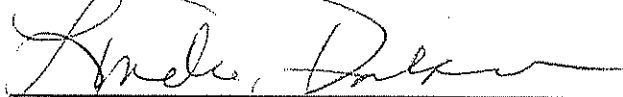
27 **Motion and Vote:**

28 Mr. Grabowski restated the motion to accept the recommendation of the Technical Staff Report to

1 approve the petition with the four noted additional recommendations. Mr. Yelder seconded the motion and
2 it passed by a vote of 3 to 0.

3 For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 21st day of
4 January, 2010, recommends that the Petitioner's request to amend Section 100.G.2.g of the Zoning
5 Regulations be APPROVED with the four noted recommendations.

6 HOWARD COUNTY PLANNING BOARD

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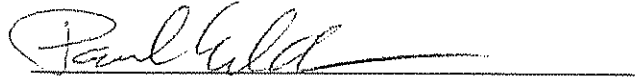
8 Linda A. Dombrowski, Chairperson

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10 David Grabowski, Vice Chairperson

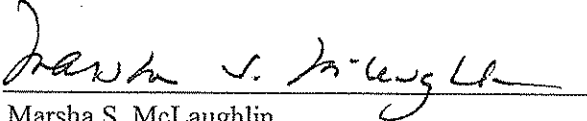
11 ABSENT

12 Tammy J. CitaraManis

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14 Paul Yelder

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16 ATTEST:

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18 Marsha S. McLaughlin
19 Executive Secretary
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